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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,384	05/16/2001	Timothy D. Allen	47767-2	3415
24115 7590 06/07/2007 BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP 3800 EMBASSY PARKWAY SUITE 300 AKRON, OH 44333-8332			EXAMINER HARBECK, TIMOTHY M	
			ART UNIT 3692	PAPER NUMBER
			NOTIFICATION DATE 06/07/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/858,384	Applicant(s) ALLEN ET AL.	
	Examiner Timothy M. Harbeck	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The declaration under 37 CFR 1.132 filed 2/27/2007 has been entered and considered.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/27/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-7, 21-22 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al (hereinafter Kelly US 2001/0056397).

Re Claim 1: Kelly discloses a process for mortgage customer retention by a mortgage servicing institution comprising the steps of:

- Capturing customer indicia input by a borrower (Page 2, paragraph 0027)

Kelly does not explicitly disclose the steps of

- Identification of the borrower's existing mortgage servicing institution

- Linking said borrower with said existing borrower's mortgage servicing institution regardless of the type of mortgage instrument held by said borrower through said borrower's existing mortgage servicing institution; and
- Notification of the borrower's existing mortgage servicing institution

However Kelly does disclose that the object of his invention is to provide a mortgage instrument that can be continuously modified, either at the request of the customer or automatically when certain parameters have been met (See paragraphs 0008-0010 and 0027-0040). Furthermore Kelly notes that problems with existing systems, specifically for servicers of mortgages is that these institutions often lose customers due to refinancing when a modification might be more beneficial to all parties (paragraph 0006). Therefore it would have been obvious to anyone of ordinary skill in the art at the time of invention to modify Kelly to include the steps of identifying, linking and notifying a servicer if one of their customers is seeking a modification, so that these customers do not go the route of refinancing, but rather can modify their existing mortgage, saving the customer money and allowing the servicer to maintain their client. Identification is necessary to avoid inadvertently directing a customer to the wrong place, the linking step allows for the negotiation of an appropriate modification, and the notification of the servicing institution is necessary so that they are aware of a customer wishing to modify and they can enter negotiations or offer them a new rate.

Re Claim 2: Kelly discloses the claimed process supra and further discloses securing permission of said borrower prior to notification of said borrower's mortgage

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servicing institution (Page 3 paragraph 0032; inherent in customer initiated; system initiated requests permission).

Re Claim 5: Kelly discloses the claimed process supra and further discloses displaying at least one of said borrower's mortgage servicing institution customer retention program (Paragraphs 0027-0040; via the use of the web site, a customer can view the modification plans, which are designed as a means of customer retention to counteract the risk of refinancing with a different entity).

Re Claim 6: Kelly discloses the claimed process supra and further discloses wherein said customer retention program further comprises at least one of: (iv) mortgage modification options (paragraphs 0030-0040).

Re Claim 7: Kelly discloses the claimed process supra and further discloses performing a mortgage modification and changing terms on said borrower's original mortgage (0027-0029).

Re Claim 21: Kelly discloses a process for mortgage customer retention by a mortgage servicing institution comprising the steps of:

- Capturing customer indicia input by a borrower (Page 2, paragraph 0027)
- Revising terms of said existing mortgage by interaction between said borrower and said existing mortgage servicing institution (0027-0040)

Kelly does not explicitly disclose the steps of

- Identification of the borrower's existing mortgage servicing institution either through information input by said borrower or by using said input information to determine said borrower's existing mortgage servicing

institution by comparison with a database of mortgaging servicing institutions

- Linking said borrower with said mortgage borrower's existing mortgage servicing institution wherein said existing mortgage may be any known mortgage institution; and
- Notification of the existing borrower's mortgage servicing institution

However Kelly does disclose that the object of his invention is to provide a mortgage instrument that can be continuously modified, either at the request of the customer or automatically when certain parameters have been met (See paragraphs 0008-0010 and 0027-0040). Furthermore Kelly notes that problems with existing systems, specifically for servicers of mortgages is that these institutions often lose customers due to refinancing when a modification might be more beneficial to all parties (paragraph 0006). Therefore it would have been obvious to anyone of ordinary skill in the art at the time of invention to modify Kelly to include the steps of identifying, linking and notifying a servicer if one of their customers is seeking a modification, so that these customers do not go the route of refinancing, but rather can modify their existing mortgage, saving the customer money and allowing the servicer to maintain their client. Identification is necessary to avoid inadvertently directing a customer to the wrong place, the linking step allows for the negotiation of an appropriate modification, and the notification of the servicing institution is necessary so that they are aware of a customer wishing to modify and they can enter negotiations or offer them a new rate.

Re Claim 22: Kelly discloses the claimed process supra and further discloses securing permission of said borrower prior to notification of said borrower's mortgage servicing institution (Page 3 paragraph 0032; inherent in customer initiated; system initiated requests permission).

Re Claim 25: Kelly discloses the claimed process supra and further discloses displaying at least one of said borrower's mortgage servicing institution customer retention program (Paragraphs 0027-0040; via the use of the web site, a customer can view the modification plans, which are designed as a means of customer retention to counteract the risk of refinancing with a different entity).

Re Claim 26: Kelly discloses the claimed process supra and further discloses wherein said customer retention program further comprises at least one of: (iv) mortgage modification options (paragraphs 0030-0040).

Claims 3-4, 8-20 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Applicants disclosure.

Re Claims 3 and 4: Kelly discloses the claimed process supra but does not explicitly disclose the steps of identification of said borrower's mortgage servicing institution by a borrower's credit report and electronically parsing borrowers credit report to identify at least one of said borrower's mortgage servicing institutions. However it was old and well known in the art to obtain the identity of a borrowers mortgage servicing institution by means of a credit report, as evidenced by applicants own disclosure (paragraph 0022). Furthermore electronic parsing of documents for specific information was notoriously well known in the art at the time of invention. Therefore it

would have been obvious to anyone of ordinary skill in the art at the time of invention to modify the system of Kelly to include these old and well-known features so that a proper determination of the mortgage servicer can be made if it is not initially known. Without this knowledge, the customer may not be directed to the appropriate place and may seek the more expensive refinancing alternative from a different institution.

Re Claim 8: Kelly discloses a process for a borrower's mortgage customer retention by a mortgage servicing institution comprising the steps of:

- Capturing customer indicia input by a borrower (Page 2, paragraph 0027)

Kelly does not explicitly disclose the steps of

- Identification of the borrower's existing mortgage servicing institution by a borrower's credit report
- Linking said borrower with said existing mortgage borrower's mortgage servicing institution; and
- Notification of the borrower's existing mortgage servicing institution

However Kelly does disclose that the object of his invention is to provide a mortgage instrument that can be continuously modified, either at the request of the customer or automatically when certain parameters have been met (See paragraphs 0008-0010 and 0027-0040). Furthermore Kelly notes that problems with existing systems, specifically for servicers of mortgages is that these institutions often lose customers due to refinancing when a modification might be more beneficial to all parties (paragraph 0006). It was also old and well known in the art to obtain the identity of a borrowers mortgage servicing institution by means of a credit report, as evidenced by

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applicants own disclosure (paragraph 0022). Therefore it would have been obvious to anyone of ordinary skill in the art at the time of invention to modify Kelly to include the steps of identifying, linking and notifying a servicer if one of their customers is seeking a modification, so that these customers do not go the route of refinancing, but rather can modify their existing mortgage, saving the customer money and allowing the servicer to maintain their client. Identification is necessary to avoid inadvertently directing a customer to the wrong place, the linking step allows for the negotiation of an appropriate modification, and the notification of the servicing institution is necessary so that they are aware of a customer wishing to modify and they can enter negotiations or offer them a new rate.

Re Claim 9: Kelly discloses the claimed process supra and further discloses securing permission of said borrower prior to notification of said borrower's mortgage servicing institution (Page 3 paragraph 0032; inherent in customer initiated; system initiated requests permission).

Re Claim 10: Kelly discloses the claimed process supra but does not explicitly disclose the step of electronically parsing borrowers credit report to identify at least one of said borrower's mortgage servicing institutions. However the step of parsing an electronic document was notoriously old and well known in the art at the time of invention and would have been obvious to anyone of ordinary skill. One would be motivated to modify the Kelly reference to include this step in order to identify particular bits of information from an electronic document.

Re Claim 11: Kelly discloses the claimed process supra and further discloses the step of displaying at least one borrower's servicing institution on a computer screen after electronically parsing said borrower's credit report (0019)

Re Claim 12: Kelly discloses the claimed process supra and further discloses displaying borrower's mortgage servicing institution's customer retention program (Paragraphs 0027-0040; via the use of the web site, a customer can view the modification plans, which are designed as a means of customer retention to counteract the risk of refinancing with a different entity).

Re Claim 13: Kelly discloses the claimed process supra and further discloses wherein said customer retention program further comprises at least one of: (iv) mortgage modification options (paragraphs 0030-0040).

Re Claim 14: Kelly discloses the claimed process supra and further discloses performing a mortgage modification on said borrower's mortgage (0027-0029).

Re Claim 15: Kelly discloses a process for a borrower's mortgage customer retention by a mortgage servicing institution comprising the steps of:

- Capturing customer indicia input by a borrower (Page 2, paragraph 0027)

Kelly does not explicitly disclose the steps of

- Identification of at least one of said borrower's existing mortgage servicing institution by a borrower's credit report
- Displaying at least one of said borrower's existing mortgage servicing institutions on a computer screen after reading said borrower's credit report

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- Linking said borrower with said mortgage borrower's existing mortgage servicing institution; and
- Notification of the borrower's existing mortgage servicing institution

However Kelly does disclose that the object of his invention is to provide a mortgage instrument that can be continuously modified, either at the request of the customer or automatically when certain parameters have been met (See paragraphs 0008-0010 and 0027-0040). Furthermore Kelly notes that problems with existing systems, specifically for servicers of mortgages is that these institutions often lose customers due to refinancing when a modification might be more beneficial to all parties (paragraph 0006). It was also old and well known in the art to obtain the identity of a borrowers mortgage servicing institution by means of a credit report, as evidenced by applicants own disclosure (paragraph 0022). Therefore it would have been obvious to anyone of ordinary skill in the art at the time of invention to modify Kelly to include the steps of identifying, linking and notifying a servicer if one of their customers is seeking a modification, so that these customers do not go the route of refinancing, but rather can modify their existing mortgage, saving the customer money and allowing the servicer to maintain their client. Identification is necessary to avoid inadvertently directing a customer to the wrong place, the linking step allows for the negotiation of an appropriate modification, and the notification of the servicing institution is necessary so that they are aware of a customer wishing to modify and they can enter negotiations or offer them a new rate. Furthermore Kelly discloses a computer screen (Fig 1) and it is notoriously

well known in the art and would therefore be obvious to anyone of ordinary skill, to utilize a screen to display electronic information.

Re Claim 16: Kelly discloses the claimed process supra and further discloses securing permission of said borrower prior to notification of said borrower's mortgage servicing institution (Page 3 paragraph 0032; inherent in customer initiated; system initiated requests permission).

Re Claim 17: Kelly discloses the claimed process supra but does not explicitly disclose the step of electronically parsing borrowers credit report to identify at least one of said borrower's mortgage servicing institutions. However the step of parsing an electronic document was notoriously old and well known in the art at the time of invention and would have been obvious to anyone of ordinary skill. One would be motivated to modify the Kelly reference to include this step in order to identify particular bits of information from an electronic document. The display of this information is redundant from claim 15.

Re Claim 18: Kelly discloses the claimed process supra and further discloses displaying borrower's mortgage servicing institution's customer retention program (Paragraphs 0027-0040; via the use of the web site, a customer can view the modification plans, which are designed as a means of customer retention to counteract the risk of refinancing with a different entity).

Re Claim 19: Kelly discloses the claimed process supra and further discloses wherein said customer retention program further comprises at least one of: (iv) mortgage modification options (paragraphs 0030-0040).

Re Claim 20: Kelly discloses the claimed process supra and further discloses performing a mortgage modification on said borrower's mortgage (0027-0029).

Re Claims 23 and 24: Kelly discloses the claimed process supra but does not explicitly disclose the steps of identification of said borrower's mortgage servicing institution by a borrower's credit report and electronically parsing borrowers credit report to identify at least one of said borrower's mortgage servicing institutions. However it was old and well known in the art to obtain the identity of a borrowers mortgage servicing institution by means of a credit report, as evidenced by applicants own disclosure (paragraph 0022). Furthermore electronic parsing of documents for specific information was notoriously well known in the art at the time of invention. Therefore it would have been obvious to anyone of ordinary skill in the art at the time of invention to modify the system of Kelly to include these old and well-known features so that a proper determination of the mortgage servicer can be made if it is not initially known. Without this knowledge, the customer may not be directed to the appropriate place and may seek the more expensive refinancing alternative from a different institution.

Response to Arguments

Applicant's arguments, see Remarks, filed 2/27/2007, have been fully considered and are persuasive. The examiner feels there may be allowable subject matter within the claim, specifically over Kelly with regard to the linking step to the mortgage servicing institution. However the examiner believes that there are a few potential informalities that need to be corrected. The examiner would prefer if the further limitations regarding the identification step that were removed from the current set of amendments be

readmitted. This would assist in avoiding potential 101 issues and also helps further refine the invention as the database that links a name to an institution is the heart of applicant's invention.

Second the examiner has an issue with some of the amended language in claims 20 and 21, specifically the language of 'any known mortgage instrument.' The examiner does not feel that this is covered in the specification and may inadvertently encompass future information not contemplated. Taking a brief look at the specification, the examiner suggests that applicant utilize language such as that on page 2, lines 20-25 to prevent a new matter issue or a potential undue breadth.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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